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IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

No. 520

UNITED GAS PIPE LINE COMPANY,

Petitioner,

v.

TYLER GAS SERVICE COMPANY, THE CITY OF TYLER, TEXAS, and THE FEDERAL POWER COMMISSION,

Respondents.

OBJECTION OF PETITIONER TO MOTION OF McMURREY REFINING COMPANY FOR LEAVE TO FILE BRIEF AMICUS CURIAE, AND MOTION TO STRIKE THE BRIEF FILED

THOMAS FLETCHER
11th Floor Esperson Bldg.
Houston 2, Texas

C. HUFFMAN LEWIS
P. O. Box 1707
Shreveport, Louisiana
Attorneys for United Gas Pipe Line Company, Petitioner

Of Counsel:
W. O. CRAIN, *General Counsel*
GEORGE D. FISER
United Gas Pipe Line Company
P. O. Box 1407
Shreveport, Louisiana.
JAMES W. McCARTNEY
ADRIAN M. BURK
11th Floor Esperson Building
Houston 2, Texas.

November 4, 1957

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United Gas Pipe Line Company, Petitioner, objects to and opposes the motion of McMurrey Refining Company for leave to file brief amicus curiae in oppositon to petition for Writ of Certiorari and moves to strike the brief amicus curiae in oppositon attached to and under the same cover with said motion for the following grounds and reasons:

1. The Motion is insufficient for failure, as required by Rule 42(3) of this Honorable Court, to "set forth facts or questions of law that have not been, or reasons for believing that they will not adequately be, presented by the parties, and their relevancy to the disposition of the case; * * *"

On the contrary, the motion and the so-called brief attached clearly show that the requirement of the Rules cannot be met, for the motion and the brief simply adopt with approval the brief in oppositon already filed by Respondents Tyler Gas Service Company and The City of Tyler, Texas.

2. Consent by Petitioner was denied for the filing of an amicus curiae brief upon the stated grounds that Petitioner was convinced that the attorneys for Tyler Gas Service Company and The City of Tyler, Texas, were adequately and efficiently able and prepared to present all facts and questions of law relevant and necessary to, or persuasive in, the disposition of the case, including all contentions assertable by Tyler Gas Service Company and The City of Tyler, Texas.

3. The record in this case contains nothing to warrant or support the purported facts set forth in the middle paragraph of Page 2 of the Motion.

4. The sole ground of interest alleged is that McMurrey Refining Company is a customer of Tyler Gas Service Company and thus liable to have its rates increased if the rates to Tyler Gas Service Company are increased. This is the immutable consequence of utility regulation. The proper forum for the assertion of McMurrey's claims is that forum which is authorized to consider increases in rates of Tyler Gas Service Company, i.e., the City of Tyler, Texas.

If identification as a customer of Tyler Gas Service Company be ground for McMurrey's motion, then every citizen of the City of Tyler, Texas, who buys gas from Tyler Gas Service Company would be clearly entitled. Jurisdiction and decision in this Honorable Court does not hinge upon balloting.

5. The motion seeks permission to file the brief. But the brief is attached to, and under the same cover with, the motion. The apparent theory is that irrespective of permission, the Court will read the brief so that McMurrey's purpose, thus, will have been accomplished. It is not believed that this accords with the letter or spirit of the Rules.

Accordingly Petitioner prays that the motion be denied and that the brief attached be stricken.

Respectfully submitted

THOMAS FLETCHER
11th Floor Esperson Bldg.
Houston 2, Texas

C. HUFFMAN LEWIS
P. O. Box 1707
Shreveport, Louisiana
Attorneys for Petitioner
United Gas Pipe Line Company

Of Counsel:

W. O. CRAIN, *General Counsel*
GEORGE D. FISER
P. O. Box 1407
Shreveport, Louisiana.
JAMES W. McCARTNEY
ADRIAN M. BURK
11th Floor Esperson Building
Houston 2, Texas.
Attorneys for Petitioner
United Gas Pipe Line Company

CERTIFICATE OF SERVICE

I, Thomas Fletcher, Attorney for United Gas Pipe Line Company, Petitioner, and a member of the Bar of the Supreme Court of the United States, do hereby certify that I have served the foregoing objection and opposition to motion of McMurrey Refining Company for leave to file an amicus curiae brief in opposition to the petition for Writ of Certiorari, and motion to strike such brief, by depositing a true and correct copy thereof in the United States Mail, airmail postage prepaid, on November 4, 1957, addressed to the following:

J. Lee Rankin, Esquire,
Solicitor General of the United States,
Department of Justice,
Washington, D. C.

Williard W. Gatchell, Esquire,
General Counsel,
Federal Power Commission,
441 G Street, N.W.,
Washington 25, D. C.

Howard E. Wahrenbrock, Esquire,
Solicitor,
Federal Power Commission,
441 G Street, N.W.,
Washington, D. C.

Louis L. DaPra, Esquire,
Attorney,
Federal Power Commission,
441 G Street, N.W.
Washington, D. C.
Attorneys for Respondent
Federal Power Commission

Bryce Rea, Jr., Esquire,
Munsey Building,
1329 E Street, N.W.,
Washington, D. C.

Thomas B. Ramey, Esquire,
Citizens National Bank Building,
Tyler, Texas.

Troy Smith, Esquire,
Citizens National Bank Building,
Tyler, Texas.
Attorneys for Respondents
Tyler Gas Service Company and
The City of Tyler, Texas.

William C. Chanler, Esquire, and
J. Philip Bahn, Esquire,
40 Wall Street,
New York 5, N. Y.
Attorneys for McMurrey Refining Company.

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THOMAS FLETCHER
Attorney for Petitioner
United Gas Pipe Line Company